

HOUSE No. 778

By Mr. O’Flaherty of Chelsea (by request), petition of Vincent Zarrilli for legislation to establish a modified judicial merit-retention system. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO ESTABLISH MODIFIED JUDICIAL MERIT-RETENTION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. A modified judicial merit-retention system shall
2 be established in such manner so as to each year conduct a refer-
3 endum survey wherein each individual who has appeared in a Dis-
4 trict Court or Superior Court courtroom wherein judicial
5 proceedings have transpired may participate in a survey wherein
6 he or she may offer to the administrating agency a written and
7 signed statement of reasons as to why any given judge should not
8 hold office.

9 That any survey shall be written on forms supplied by the
10 administrating agency and shall set forth that the participant has
11 personal knowledge of the Code of Judicial Ethics and has no bias
12 as standards in setting forth the above mentioned statement of rea-
13 sons.

14 That said tabulation shall be referred to a committee of ultimate
15 authority composed of the judges of the Supreme Judicial Court
16 and the Appellate Court to be known as the Supreme Court of
17 Judicial Conduct on a basis of one judge vote, who shall in turn
18 issue a statement of reasons as to why any given judge who the
19 attitude survey reveals has compiled 150 negative responses
20 herein defined as an expression that the judge ought not to retain
21 his office, has in fact been retained.

22 That the survey shall take place on the first of May every year
23 and embrace each judge who has held office for six months.

24 That the entire procedure shall be complete by the first Tuesday
25 after the first Monday in November of every year embodied in a
26 report signed by each justice of the Supreme Court of Judicial
27 Conduct.

1 SECTION 2. That this act shall also encompass a judicial atti-
2 tude survey wherein such person who has appeared in a courtroom
3 where judicial proceedings have transpired may register his or her
4 opinion based on the canons of judicial ethics is to merit attain-
5 ment of the specific presiding judge that such opinion be reflected
6 on the following scale: (1) outstanding; (2) very good; (3) good;
7 (4) fair, and (5) see statement attached.

8 Any judge who receives a plurality of 50 or more designations
9 of outstanding for two consecutive years shall receive additional
10 compensation of \$7,500 per year for each year of such designation
11 retroactive to the first year of such designation.

1 SECTION 3. That any justice who has compiled 150 negative
2 responses which is in fact affirmed by the Supreme Court of Judi-
3 cial Conduct may retain the title and compensation of hitherto
4 held provided that said justice assume and discharge administra-
5 tive matters under the aegis of the Chief Administrative Justice of
6 both the Superior and District Courts who, at their discretion at
7 the expiration of two years by majority vote, reassign said justice
8 to courtroom activity or at any time for substantial cause dis-
9 charge said justice from the judicial system in the entirety pro-
10 vided said discharge is affirmed by both the Supreme Court of
11 Judicial Conduct and Executive Council who shall act within
12 ninety days of notice of discharge. Failure to act within the speci-
13 fied time of either body shall be construed as affirmance in such a
14 manner that any discharge becomes final on the ninety-first day
15 after the issuance of this notice of discharge by the Chief Admin-
16 istrative Justice.

1 SECTION 4. All attorneys duly licensed by the Commonwealth
2 and residing herein who have appeared in a courtroom proceeding
3 shall participate in such survey. Any activity on the part of said
4 attorneys deemed frivolous or in bad faith by a majority of the
5 Chief Administrative Justice, Chief Justice of the Superior Court

6 or District Court may be grounds for a disciplinary hearing by the
7 board of bar overseers.

1 SECTION 5. The administrative arraignment for the bill shall
2 be attended by the Commission on Judicial conduct who shall at
3 all times be accountable to the Chief Administrative Justice of the
4 trial courts.